

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: March 28, 2003

To: The Commission
(Meeting of April 3, 2003)

From: Alan LoFaso
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 1457 (Assembly Utilities & Commerce Committee - Reyes, et.al.) – Telecommunications: High Cost Fund A**

As Introduced February 21, 2003

Legislative Subcommittee Recommendation: SUPPORT IF AMENDED

Summary: This bill would appropriate \$2.5 million to the commission from the California High Cost Fund (CHCF) A Administrative Committee Fund to pay claims to up to 17 small incumbent local exchange carriers for service provided to rural consumers under the CHCF A program. This bill would also provide that no fee, charge, or rate may be raised by the commission as a result of its provisions. This bill also contains an urgency clause.

Analysis: This bill would authorize the CPUC to pay back claims submitted by incumbent local exchange carriers for CHCF A services provided to rural consumers in May and June of 2002. The commission is unable to pay these reimbursements because insufficient funds were appropriated during fiscal year (FY) 2001-2002 to the commission to pay the entirety of that year's claims.

This shortfall occurs because the 2001 Budget Act appropriated only enough funds to the commission to cover nine months of claims for FY 2001-2002. This nine-month appropriation only covered claims beginning October 1, 2001 or the second quarter of FY 2001-2002 (not July 1, 2001 or the beginning the fiscal year).

The 2001 Budget Act's appropriation coincided with a related trailer bill (see SB 742 below) requiring movement of High Cost A surcharge funds from accounts previously held by the commission to the Controller, effective October 1, 2001. This action implemented the provisions of SB 669 (see below), submitting the commission's public purpose programs to oversight via the state budget process. At that time, it was not

anticipated that this change required a change in accounting methods for these programs.

Herein lies the problem. Prior to SB 742, the commission's telecommunications public purpose programs were administered on a cash accounting basis. Claims were paid from funds accrued in the accounts from surcharge revenues received, with funds being accounted for by reference to the time claims were paid (i.e., cash accounting). The state budget accounts for the payment of funds on an accrual accounting basis, with funds being accounted for by reference to the time when services are provided (not paid) for which payment is made in arrears (i.e., accrual accounting).

In the case of FY 2001-2002, the nine-month appropriation was used to pay claims from prior to October 1, 2001. Under a cash accounting methodology, these payments were mistakenly attributed to the second quarter of the fiscal year (for which funds were appropriated in the Budget Act).

However, under accrual accounting these payments should properly have been attributed to the first quarter of the fiscal year, the period for which funds were not appropriated. Because all commission funds were required to be deposited in the Controller's Office on October 1, 2001, no funds were left to pay for claims in arrears arising from prior that date, but submitted to the commission after October 1, 2001.

Because claims in arrears from prior to October 1, 2001, were paid from the FY 2001-2002 appropriation, the commission was required to support at least ten months of claims from that nine-month appropriation. Paying those claims in arrears was legal because they were encumbered in FY 2001-2002. However, when the funds ran out late in the fiscal year, FY 2001-2002 claims could not legally be paid from the FY 2002-2003 appropriation.

Finally, because this problem was identified after the end of FY 2001-2002, the Budget Act's Sec. 27 Deficiency Process was not available to address the shortfall.

AMENDMENTS

1. Appropriation level – The Telecommunication Division has identified \$3 million in unpaid claims for FY 2001-2002. This bill appropriates \$2.5 million. This bill should be amended to provide the necessary amount to repay the back claims, and commission should provide any necessary technical assistance to identify this amount.
2. Period for which funds are appropriate – This bill should be amended to clearly state that these funds are appropriated for fiscal year 2001-2002, to remove any ambiguity that the commission has appropriation authority to pay claims encumbered during that time.

3. Limit on raising fees, charges, or rates. The bill provides that “[n]o fee, charge, or rate may be increased by the commission as a result of this section.” (AB 1457, Section 1 (uncodified), page 2, lines 8-9.)

Telecommunication Division reports that no surcharge increase would be required as a result of the shortfall in the CHCF A appropriation. However, there may be shortfalls in the CHCF B and the Universal Lifeline Telephone Service (Lifeline) funds, and this bill may be amended to include those programs. Moreover, the Lifeline program surcharge is currently set at zero. It will certainly require an increase sometime in the future. This bill should be amended if its provisions prevent the commission from setting a surcharge necessary to support any telecommunications public purpose programs.

LEGISLATIVE HISTORY

Existing law, Chapter 677, Statutes of 1999 (SB 669 (Polanco)), required the commission to create 6 advisory boards to advise the commission regarding the implementation, development, and administration of specified public purpose programs, including the California High Cost Fund (CHCF) A Committee. The California High Cost Fund A subsidizes high cost service to rural consumers provided by 17 small incumbent local exchange carriers.

SB 669 also required telephone corporations to submit to the commission approved rate revenues (surcharge) for transfer by the commission to the Controller for deposit in the appropriate public purpose program fund (including the CHCF A Committee fund), created by the bill. Existing law also limits the expenditure of moneys appropriated from these funds to the support of the specified public purpose programs. In effect, this law provided for oversight of these public purpose program funds through the state’s budget process.

SB 669 also required the commission, on or before July 1, 2000, to report to the Governor and the Legislature regarding a transition plan for programs associated with those funds.

Existing law, Chapter 118, Statutes of 2001 (SB 742 (Escutia)), required that, commencing on October 1, 2001, and continuing thereafter, the commission transfer the moneys received from specified public purpose fund surcharges, and all unexpended revenues collected prior to October 1, 2001, to the Controller for deposit in the various public purpose programs funds established by SB 669.

LEGISLATIVE STAFF CONTACT

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Date: March 20, 2003

BILL LANGUAGE:

BILL NUMBER: AB 1457 INTRODUCED
BILL TEXT

INTRODUCED BY Committee on Utilities and Commerce (Reyes (Chair), Richman (Vice Chair), Calderon, Campbell, Canciamilla, Diaz, Jerome Horton, La Malfa, La Suer, Levine, Maddox, Nunez, Ridley-Thomas, and Wolk)

FEBRUARY 21, 2003

An act relating to telecommunications, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1457, as introduced, Committee on Utilities and Commerce.
Telecommunications: High-Cost Fund-A.

Existing law, requires the Public Utilities Commission to develop, implement, and maintain a suitable program to establish a fair and equitable local rate structure aided by transfer payments to small independent telephone corporations serving rural and small metropolitan areas, in order to promote the goals of universal telephone service and to reduce any disparity in rates charged by small independent telephone corporations serving rural and small metropolitan areas. Moneys collected for this program are deposited into the California High-Cost Fund-A Administrative Committee Fund. Moneys in the fund may be expended, upon appropriation in the annual Budget Act.

This bill would appropriate \$2,500,000 from the fund for the purpose of transferring funds to telephone corporations providing services in high cost areas and authorized to receive the funds. The bill would prohibit the commission from increasing any fee, charge, or rate as a result of this appropriation.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. There is hereby appropriated from the California High-Cost Fund-A Administrative Committee Fund to the Public Utilities Commission, two million five hundred thousand dollars (\$2,500,000) for the purpose of transferring funds to telephone corporations providing services in high cost areas and authorized to receive these funds pursuant to Chapter 1.5 (commencing with Section 270) of Part 1 of Division 1 of the Public Utilities Code. No fee, charge, or rate may be increased by the commission as a result of this section.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the

meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The authority to expend money from the California High-Cost Fund-A Administrative Committee Fund in the Budget Act for fiscal year 2001-02 was underestimated due to an accounting misunderstanding. Money for the payments due to be transferred to telephone corporations were collected and deposited into these funds, but authorization to transfer the moneys fell short of the amount due to be paid out by the end of the fiscal year. The California High-Cost Fund-A Administrative Committee Fund, among other things, provides funding for basic telephone services to state residents who would not otherwise receive these necessary services. In order to provide sufficient revenues for the telephone corporations authorized to receive these funds pursuant to Chapter 1.5 (commencing with Section 270) of Part 1 of Division 1 of the Public Utilities Code, to continue providing services in high cost areas, it is necessary that this act take effect immediately.